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SENATE BILL 2665
By McNally

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 10, Part 4, relative to criminal offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-406(a)(2), is amended by deleting the section in its entirety and by substituting instead the following:

(2) Any law enforcement officer who requests that the driver of a motor vehicle submit to a test pursuant to this section for the purpose of determining the alcoholic or drug content of the driver's blood shall, prior to conducting such test, advise the driver that refusal to submit to such test will result in the suspension of the driver's operator's license by the court and, if such driver is driving on a revoked, suspended or canceled license, when the person's privilege to do so is cancelled, suspended or revoked because of a conviction for vehicular assault under §39-13-106, vehicular homicide under §39-13-213, or driving while intoxicated under §55-10-401, that the refusal to submit to such test will, in addition, result in a fine and mandatory jail or workhouse sentence. The court having jurisdiction of the offense for which such driver was placed under arrest shall not have the authority to suspend the license of a driver who refused to submit to the test if the driver was not advised of the consequences of such refusal.

SECTION 2. Tennessee Code Annotated, Section 55-10-406(a)(3), is amended by deleting the section in its entirety and by substituting instead the following:

(3) If such person having been placed under arrest and thereafter having been requested by a law enforcement officer to submit to such test and advised of the consequences for refusing to do so, refuses to submit to the test, the test shall not be given and such person shall be charged with violating this subsection. The determination as to whether a driver violated the provisions of this subsection shall be made at the same time and by the same court or jury as the one considering the offense for which the driver was placed under arrest. If the court finds that the driver violated the provisions of this subsection, the driver shall not be considered as having committed a criminal offense if the driver is not driving on a revoked, suspended or canceled license or is driving while unlicensed; however, the court shall suspend the license of such driver for a period of twelve (12) months. If the court finds that the driver of a motor vehicle involved in an accident in which one (1) or more persons suffer serious bodily injury violated this subsection by refusing to submit to such a test, the court shall suspend the license of such driver for a period of two (2) years. If the court finds that the driver of a motor vehicle involved in an accident in which one (1) or more persons are killed violated this subsection by refusing to submit to such a test, the court shall suspend the license of such driver for a period of five (5) years. In addition to the consequences set forth in this section, if the court or jury finds that the driver violated the provisions of this subsection while driving on a revoked, suspended or canceled license, when the person's privilege to do so is cancelled, suspended or revoked because of a conviction for vehicular assault under §39-13-106, vehicular homicide under §39-13-213, or driving while intoxicated under §55-10-401, said driver shall be guilty of committing a Class A misdemeanor and shall be fined not more than one thousand dollars (\$1,000.00) and shall be sentenced to a minimum mandatory jail or workhouse sentence of forty-five (45)

days which shall be served consecutively, day for day, and which sentence cannot be suspended.

SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it.